

CV 12-1640
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Norman Fuchs,

Plaintiff,

- against -

Enhanced Recovery Company, LLC,

Defendant.

GARAUFIS, J. X

GOLD, M.J.

Civil Action No.

U.S. DISTRICT COURT
EASTERN DISTRICT
OF NEW YORK

2012 APR -4 AM 9:21

FILED
CLERK

COMMONS ISSUED

**COMPLAINT AND
DEMAND FOR
TRIAL BY JURY**

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Plaintiff Norman Fuchs ("Plaintiff" or "Fuchs"), by and through his attorneys, FREDRICK SCHULMAN & ASSOCIATES, Attorneys at Law, as and for his Complaint against Defendant Enhanced Recovery Company, LLC, ("Defendant" or "Enhanced"), respectfully sets forth, complains and alleges, upon information and belief, the following:

INTRODUCTION/PRELIMINARY STATEMENT

1. Plaintiff brings this action for damages and declaratory and injunctive relief arising from the Defendant's violation(s) of Sec. 1692 et. seq. of Title 15 of the United States Code, commonly referred to as the Fair Debt Collections Practices Act ("FDCPA").

PARTIES

2. Plaintiff is a resident of the State of New York, County of Suffolk, residing at 5 Flagpole Lane, East Setauket, New York 11733.

3. Upon information and belief, Defendant is a Delaware limited liability company with a principal place of business at 8014 Bayberry Road, Jacksonville, Florida 32256, and is authorized to do business in the State of New York.

4. Defendant is a "debt collector" as the phrase is defined and used in the FDCPA.

JURISDICTION AND VENUE

5. The Court has jurisdiction over this matter pursuant to 28 U.S.C. Sec. 1331, as well as 15 U.S.C. Sec. 1692 et. seq. and 28 U.S.C. Sec. 2201. If applicable, the Court also has pendent jurisdiction over any State law claims in this action pursuant to 28 U.S.C. Sec. 1367(a).
6. Venue is proper in this judicial district pursuant to 28 U.S.C. Sec. 1391(b)(2).

FACTUAL ALLEGATIONS

7. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "6" herein with the same force and effect as if the same were set forth at length herein.
8. Upon information and belief, on a date better known to Defendant, Defendant began collection activities on an alleged consumer debt from Plaintiff ("Alleged Debt").
9. On or about October 1, 2011, at approximately 10:30 a.m., Defendant placed a telephone call to Plaintiff and left a message for Plaintiff on an answering machine.
10. Said message contained personal and confidential information.
11. Said message was to collect a debt, and it was left on an answering machine which was played and heard by one or more third parties who each had the right and opportunity to play same.
12. Said message was heard, amongst others, by Plaintiff's daughter, Valerie Fuchs.
13. The actions of Defendant led to embarrassment, harassment, and disclosure of confidential information to a third party.

14. Said actions by Defendant violated 15 U.S.C. §1692b(2) which prohibits communicating to a third party and/or stating that a consumer owes a debt.

15. As a result of Defendant's deceptive, misleading and/or unfair debt collection practices, Plaintiff has been damaged.

FIRST CAUSE OF ACTION
(Violations of the FDCPA)

16. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "15" herein with the same force and effect as if the same were set forth at length herein.

17. Defendant's debt collection efforts attempted and/or directed towards Plaintiff violate various provisions of the FDCPA, including but not limited to 15 U.S.C. §1692b(2).

18. As a result of Defendant's violations of the FDCPA, Plaintiff has been damaged and is entitled to damages in accordance with the FDCPA.

DEMAND FOR TRIAL BY JURY

19. Plaintiff demands and hereby respectfully requests a trial by jury for all claims and issues in this Complaint to which the Plaintiff is or may be entitled to a jury trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Norman Fuchs, demands judgment from the Enhanced Recovery Company, LLC, as follows:

- A. For actual damages provided and pursuant to 15 U.S.C. Sec. 1692k(a)(1);
- B. For statutory damages provided and pursuant to 15 U.S.C. Sec.1692k(a)(2)(A);

- C. For attorneys' fees and costs provided and pursuant to 15 U.S.C. Sec. 1692k(a)(3);
- D. For a declaration that the Defendant's practices violated the provisions of the FDCPA;
- and,
- E. For any such other and further relief, as well as further costs, expenses and disbursements of this action, as this Court may deem just and proper.

Dated: New York, New York
March 30, 2012

Respectfully submitted,

By: 

Samuel A. Ehrenfeld

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